

## **Remarks/Arguments**

This paper is submitted responsive to the office action mailed November 28, 2008. Reconsideration of the application in light of the accompanying remarks and amendments is respectfully requested.

### **I. CLAIM OBJECTIONS**

In the action, the Examiner objected to the specification due to the use of trademarks in paragraph [0003]. This use has been corrected to clearly show that the terms are trademarks, and to include the common or generic class of goods that are represented by those trademarks.

### **II. CLAIM REJECTIONS-35 U.S.C. 112**

Claim 4 has been cancelled without prejudice thereby rendering the rejection under 35 USC 112, second paragraph moot.

Claims 8-10 have been amended to address the Examiner's rejection.

New claims 11-13 have been added and correspond to subject matter of original claims 9 and 10. No new matter has been added.

### **III. CLAIM REJECTIONS-35 U.S.C. 102(b)**

Claims 1-8 and 10 have been rejected under 35 U.S.C. 102(b) as being anticipated by Patent Number 6,890,571 to Y-C. Shi. Applicant respectfully traverses the rejection.

It is submitted that the claims as amended clearly define over Shi and all other art of record.

Shi does not disclose a slowly digestible starch product having an initial hydrolysis rate ( $H_0$ ) $<300\%/\text{h}$  and a constant or nearly constant hydrolysis rate ( $H_c$ ) $<300\%/\text{h}$  for at least 0.50 h. Rather, Table 1 of our Specification states that amylase-treated cornstarch has a constant or nearly constant hydrolysis rate ( $H_c$ ) $=200\%/\text{h}$  for  $t_c$  of 0.25 h. Shi clearly fails to anticipate the subject matter of claims 1 and 8 as amended.

Independent claims 1 and 8 are believed allowable. Dependent claims 3, 5-15 all depend directly or indirectly from claims 1 or 8 and are submitted to be allowable based upon this dependency, and in their own right.

In light of the forgoing, it is believed that claims 1-8 and 10 are patentably distinguishable from the art on record and an early indication of the same is respectfully requested.

#### IV. CLAIM REJECTIONS-35 U.S.C. 103(a)

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Shi in view of US Patent Number 5,849,090 to S.G. Haralampu. Applicant respectfully traverses the rejection.

As discussed above, it is submitted that the claims as amended clearly define over Shi and all other art of record. Haralampu does not alleviate the deficiencies found in Shi.

Dependent claim 9 depends directly from claim 1 and is submitted to be allowable based upon this dependency, and in its own right.

In light of the forgoing, it is believed that claim 9 is patentably distinct from the art on record and an early indication of the same is respectfully requested.

An earnest and thorough effort has been made to address all issues raised in the office action and to place the application in condition for allowance. If, upon considering this paper, the Examiner is of the opinion that issues remain which could be addressed by telephone interview, the Examiner is invited to telephone the undersigned to discuss and resolve same.

It is believed that no fee is due in connection with this response. If any such fee is due, please charge same to Deposit Account 02-0184.

Respectfully submitted,

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